said spacer being in electrical contact with only one of said row-directed or column-directed wires.

REMARKS

Claims 57-63 are pending in the application. Claim 57 has been amended more clearly to recite the novel features of the present invention. Claim 57 is independent.

Applicants respecfully request the Examiner to reconsider and withdraw the outstanding rejection in view of the foregoing amendments and the following remarks.

Claims 57-63 have been rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-50 over the patent to Mitsutake, et al.

MPEP § 804 sets forth the standards under which such a rejection is to be applied:

> A double patenting rejection of the obvious-type is "analogous to [a failure to meet] the nonobviousness requirement of 35 U.S.C. 103" except that the patent principally underlying the double patenting rejection is not considered prior art...Therefore, any analysis employed in an obvious-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. (MPEP, Original Seventh Edition, July 1988, §804, page 800-17, right column, lines 27-36.)

Since the analysis for an obviousness-type double patenting rejection is the same as that for a rejection under 35 U.S.C. § 103, the Office has the burden of proof to establish a prima facie case of obviousness. Once a prima facie case has been established, the burden shifts the applicant to demonstrate the unobviousness of the invention in view of the art. MPEP § 2142 sets forth the requirements for establishing a prima facie case of obviousness:

> To establish a *prima facie* case of obviousness.... the prior art reference (or references when combined) must teach or suggest all the claim limitations. (MPEP, Original Seventh Edition, July 1988, §2142, page 2100-110, right column, lines 11-19.)

Here, independent Claim 57, has been amended (while not conceding the propriety of the rejection) to recite a feature not disclosed or suggested by the claims of the Mitsutake, et al. patent. Therefore, a prima facie case of obviousness has not yet been established against amended Claim 57. This can be seen as follows.

Claim 57 relates to an electron beam apparatus comprising a vacuum envelope and a plate-shaped spacer. The vacuum envelope contains a plurality of electron-emitting devices wired by a plurality of row-directed wires and a plurality of column-directed wires to form a matrix wiring structure. The plate-shaped spacer is capable of forming an electrical connection between a plurality of wires if arranged in electrical contact with the plurality of wires.

Claim 57 has been amended to recite that the spacer is in electrical contact with only one of the row-directed or column-directed wires.

By this arrangement, undesirable electrical contact between wires due to the spacer can be prevented.

In contrast, independent Claims 1 and 26 of the Mitsutake, et al. patent merely recite that at least one of the electrodes is mechanically bonded to the spacer at an abutment via an electroconductive bonding member which electrically connects the electrode to a semiconductor film coating the spacer. None of the claims of this patent recite or suggest that a spacer is in electrical contact with only one of the row-directed or column-directed wires, as recited by amended Claim 57.

Since the claims of the patent fail to disclose or suggest at least one feature recited in amended Claim 57, MPEP § 2142 mandates the withdrawal of the rejection of Claim 57 over the Mitsutake, et al. patent.

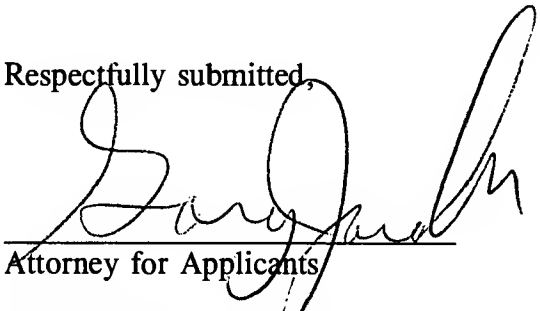
The dependent claims are allowable for the reasons given with respect to independent Claim 57 and because they recite features which are patentable in their own right. Individual consideration of the dependent claims is respectfully solicited.

The other art of record is also not understood to disclose or suggest the inventive concept of the present invention as defined by the claims.

In view of the above amendments and remarks, the claims are now in allowable form. Therefore, early passage to issue is respectfully solicited.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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